

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

LIBERTARIAN PARTY OF TENNESSEE,)
ANTHONY WALL, GREEN PARTY OF)
TENNESSEE, KATHLEEN A. CULVER,)
CONSTITUTION PARTY OF)
TENNESSEE and JOAN CASTLE,)

Plaintiffs,)

v.)

Case No. 3:08-0063

Judge Haynes

MARK GOINS, Coordinator of)
Elections for the State of Tennessee, and)
TRE HARGETT, Secretary of State for the)
State of Tennessee,)

Defendants.)

ATTACHMENT

EXHIBIT D

DEPOSITION OF ANTHONY WALL

In The Matter Of:
Libertarian Party of Tennessee, et al. v.
Brook Thompson and Riley E. Darnell

Anthony Wall
November 13, 2009

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935

VJ **V O W E L L**
J E N N I N G S

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1 into regions?

2 A. Yes. Our state party is divided into four
3 regions.

4 Q. And what are those four regions?

5 A. Mountain, Delta, Heartland, and Valley.

6 Q. Okay. And how are they divided up into
7 regions? Is it by county, by geography, by
8 population?

9 A. Strictly geography. Mountain Region
10 encompasses Northeast Tennessee; Valley is Chattanooga
11 area, toward Nashville; Heartland is the center
12 portion of the state; and Delta is the western portion
13 of the state.

14 Q. And are there actual boundary lines, or is it
15 just sort of amorphous?

16 A. Yes, we -- it is bound by counties. We have
17 divided it up into counties.

18 Q. And are there currently individuals serving as
19 coordinators for each of these regions?

20 A. We have coordinators serving for three of the
21 four regions.

22 Q. Which three regions?

23 A. The Delta Region is presently vacant.

24 Q. And how long has that position been vacant?

25 A. Less than a year.

1 THE WITNESS: Correct. That's my
2 definition.

3 BY MS. KLEINFELTER:

4 Q. And Mr. Wall, if you would, look through this
5 list of individuals who have been identified as
6 candidates -- or actually, let's go through it
7 together and identify the ones that, under your
8 definition for statewide race, are candidates for
9 statewide race. We -- president being considered a
10 federal race and not a statewide.

11 A. Okay.

12 Q. So we have -- I believe the first one would
13 be -- well, Greg Samples for U.S. Senate in 1996?

14 A. Yes.

15 Q. Okay. 2002 would be Ray (inaudible) for
16 governor?

17 A. Yes.

18 THE COURT REPORTER: I'm sorry, I
19 couldn't hear you, Ray?

20 MS. KLEINFELTER: 2002, Ray Ledford for
21 governor.

22 BY MS. KLEINFELTER:

23 Q. And is that it?

24 A. That is correct.

25 Q. And Mr. Samples received .23 percent of the

1 vote in the 1996 U.S. Senate race?

2 A. Yes.

3 Q. And Mr. Ledford, in the 2000 gubernatorial
4 race, received .1 percent?

5 A. Yes. But they were identified as independents
6 on the ballot, along with several other candidates.

7 Q. Was Mr. Samples endorsed as a candidate of the
8 Libertarian Party?

9 A. Yes.

10 Q. Was Mr. Ledford endorsed as a candidate of the
11 Libertarian Party?

12 A. Yes. Our candidates, according with -- in
13 accordance with our bylaws, are nominated at our
14 convention. But for the record, I was not present
15 in 1996. I was present in 2002.

16 Q. And then let's look at your presidential
17 candidates. In 1976, you had Roger McBride; is that
18 correct?

19 A. Yes.

20 Q. And 1980, Ed Clark?

21 A. Yes.

22 Q. In 1988, Ron Paul?

23 A. Yes.

24 Q. In 1992, Andre Marrou?

25 A. Yes.

1 other items.

2 Q. Do they provide volunteer services to the --

3 A. Yes, absolutely.

4 Q. -- to the candidate?

5 Now, let me ask you some questions about your
6 responses to the question about what actions the
7 Libertarian Party has taken to petition for ballot
8 access in Tennessee.

9 According to your answers to your
10 interrogatories, the Libertarian Party has never taken
11 any action in Tennessee to petition for ballot access;
12 is that correct?

13 A. That is correct.

14 Q. Never even attempted to?

15 A. That is correct. The current law is
16 prohibitive. Other parties have attempted since -- I
17 believe George Wallace, in 1968, was the last -- the
18 last minor party that actually had ballot access. The
19 state law requires us to have 2 1/2 percent of the
20 vote in the pervious gubernatorial race, certifying
21 affidavits stating that they are members of our party,
22 which, in round numbers, is 45,000 signatures. Our
23 state has 2,000, plus or minus, members at this time.

24 Q. And Mr. Wall, you just stated that they are
25 required to certify by affidavits that they're members

1 of the Party. Can you tell me what provision of state
2 law makes that requirement that you provide an
3 affidavit certifying that they're members of the
4 Party?

5 A. We could look it up in the book. I don't have
6 the -- I don't have the actual code number, but I have
7 read the election code.

8 Q. Would you like to look through (indicating)?

9 A. Would you like to take a recess for a few
10 minutes for me to dig through and find it?

11 Q. What if I told you that there was no
12 requirement for an affidavit certifying that they're
13 members of the Party?

14 A. I believe that I read that the petition
15 signatures -- that you have to -- that the signature
16 actually states that you are a member of the political
17 party.

18 Q. And is that an affidavit? To your knowledge,
19 is that the same thing as an affidavit?

20 A. Well, I'm not an attorney, so I may be using
21 the wrong word.

22 Q. Just want to make that clear.

23 A. Thank you.

24 Q. Mr. Wall, you indicated in answer No. -- the
25 answer to Question No. 19 that the Libertarian Party

1 was involved in a lawsuit in 1977 in which they
2 challenged the constitutionality of the statutes in
3 question, and that was -- actually, in 1976, and the
4 Tennessee Supreme Court ultimately upheld the
5 constitutionality of the statutes in question in 1977.
6 To your knowledge, has the law changed since 1977?

7 A. I do not know the answer to that.

8 Q. Well, at the time, the Tennessee Supreme Court
9 held that the petition requirements were
10 constitutional, and -- but your testimony is that the
11 Libertarian Party made no attempt, after that court
12 decision, to comply with the petition requirements.

13 A. Yes, that's correct. And my knowledge extends
14 to 1999, but I am unaware of any attempts prior to
15 that.

16 Q. Okay. Now, you have indicated that in instead
17 of complying -- or attempting to comply with the
18 petition requirements, instead you've attempted to
19 make legislative changes; is that correct?

20 A. Yes, that is.

21 Q. And that your first attempt was in 2000?

22 A. That is correct.

23 Q. Now, you've indicated that you were -- only
24 became a member of the Party in 1999. Do you have any
25 knowledge of legislative attempts that were made prior

1 party?

2 A. That's correct.

3 Q. Is there a way to be a member of the state
4 party without being a member of a national party or a
5 local party?

6 A. There is a way -- the state party will
7 recognize anyone who is a member of the national
8 party. The state -- I mean, I'm sorry, the State
9 recognizes anyone who is a member of the national
10 party. We also recognize anyone who is a member of a
11 local party. You can be a member of a county party or
12 a state party without being a member of the national
13 party.

14 Q. And that's -- that's not my question. My
15 question is: Can you be a member of the state party,
16 the Libertarian Party of Tennessee, without being a
17 member of the national party and without being a
18 member of a local party, a -- either a chapter -- I
19 mean, a county or a regional affiliate?

20 A. Yes. Because there are -- we have some
21 members who are in the areas of the state where we
22 don't have active affiliates.

23 Q. And how do you become a member of a state
24 party in that instance?

25 A. You would attend -- in order to participate in

1 our convention, you would have to be accepted by the
2 membership at the convention upon a recommendation of
3 an officer of the party or a regional coordinator.

4 Q. So make sure I understand this. If I'm living
5 in a part of the state where there is no county or
6 regional affiliate that I can be a member of and I
7 want to be a member of the state party, I have to
8 attend the convention? Is that the annual convention,
9 or do I have to attend . . .

10 A. Our membership -- our membership requirements
11 for the state party are -- are vague. And we have
12 that intentionally, because we want to encourage more
13 people to recognize themselves and adopt the
14 Libertarian philosophy. If you live in Dyersburg,
15 where we have no local affiliate, and you want to
16 participate in the state, we have state websites and
17 blog sites and -- that people can participate in our
18 process through activism. And then we would consider
19 them a member of the party just by them becoming
20 active with us at a state level. And then if they
21 want to come to our state convention and participate,
22 because they have not met the other -- any of the
23 other criteria, like joining the national party, then
24 they would have to be accepted by the delegates at our
25 state convention in order to be able to participate in

1 our business.

2 Q. And, I guess, what I'm trying get at is that
3 you indicated in the answers to your interrogatories
4 that the Libertarian Party currently has, I believe,
5 it's 1,980 members?

6 A. Yes.

7 Q. And I'm trying to figure out, how do you
8 arrive at that number?

9 A. That number is -- that number was taken from
10 our national database, which includes all people who
11 are currently members of the national party, members
12 who have, at one time --

13 MR. LINGER: (Inaudible.)

14 (Indiscernible discussion off the
15 record.)

16 THE WITNESS: That's correct.

17 Yeah. All members of the national party
18 who lived in Tennessee. And members who are certified
19 by our state and recognized by our state.

20 BY MS. KLEINFELTER:

21 Q. And that's the national database?

22 A. National database, which is intertwined and
23 intermingled with local information that we have on
24 the state level.

25 Q. And -- Okay. You've indicated that you have

1 county and regional affiliates?

2 A. Yes.

3 Q. How many county affiliates -- and is that the
4 correct term to call them "affiliates"?

5 A. Yes.

6 Q. Okay. How many county affiliates do you have?

7 A. We have six or seven, either, county or
8 regional affiliates right now that are active. And
9 when -- I define "active" as holding regular meetings
10 and engaging in political activity in their local
11 areas. We have affiliates in the Tri-Cities, in
12 Knoxville, in Chattanooga, in Nashville, in Memphis.

13 MS. KLEINFELTER: With respect to
14 the 2009 bylaws, can we make that Late-filed
15 Exhibit 4?

16 MR. LINGER: Yes.

17 MS. KLEINFELTER: Since we've had
18 significant discussion of it.

19 MR. LINGER: We probably -- if we could
20 take a break, we could probably run it off the website
21 and put it in.

22 Do you want to note that as Exhibit 3,
23 the bylaws? We -- did you state that you wanted to do
24 that?

25 MS. KLEINFELTER: Yes. Let me see.

1 MS. KLEINFELTER: Actually, I do have one
2 follow-up question.

3 E X A M I N A T I O N

4 BY MS. KLEINFELTER:

5 Q. We had asked if the Libertarian Party had
6 copies of any rules of procedures or anything other
7 than -- I mean, I think we had asked for copies of
8 Charter Bylaws and Rules of Proceeding and any
9 amendments or modifications thereto. Are the bylaws
10 the only thing that you have?

11 A. Yes, that is correct.

12 Q. And does the Libertarian Party have any
13 official headquarters?

14 A. No.

15 Q. Do you have any offices that you utilize, that
16 you rent, or office space that you . . .

17 A. No.

18 Q. Do you have any paid staff?

19 A. No.

20 MS. KLEINFELTER: Okay.

21 E X A M I N A T I O N

22 BY MR. LINGER:

23 Q. Just briefly. Does the Libertarian Party
24 maintain a website in Tennessee?

25 A. Yes.



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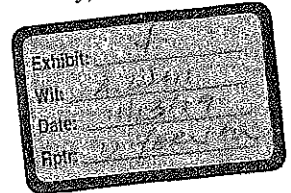
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Friday, 11/13/09

Bylaws of the Libertarian Party of Tennessee

Last Amended in Convention, April 25, 2009



Article I: NAME

The name of this organization shall be the Libertarian Party of Tennessee, hereinafter abbreviated as LPTN.

Article II: PURPOSE

The Primary Purpose of the Libertarian Party is to help restore the Libertarian Principles of Free Enterprise, Property Rights, Individual Freedom coupled with Individual Responsibility and Small Limited Government in whatever Entrepreneurial Fashion we can. It is the purpose of these bylaws to limit the party officers and not the party members.

Article III: MEMBERSHIP

A. In addition to being a resident of the state of Tennessee, membership in the LPTN shall consist of any of the following:

1. National, and therefore State, Libertarian Party membership as defined by the National Libertarian Party by-laws; or
2. Certification as an eligible voting delegate at any previous LPTN convention; or
3. Membership in good standing of an LPTN affiliated county or LPTN affiliated regional party, as certified by the respective county or regional chair. County parties and the LPTN Secretary shall maintain a list of non-national members who are certified as LPTN members. This list shall be perpetual and updated as necessary; or
4. Membership in good standing of the state party as certified by a Tennessee Regional Coordinator or elected officer of the LPTN.

B. No state dues will be charged. Voluntary contributions are welcome.

Article IV: OFFICERS

A. Elected officers shall consist of Chair, Vice Chair, Treasurer, and Secretary. Officers shall take office at the close of the convention in which they are elected, and they shall serve until their successors are elected or confirmed.

B. Any officer of the LPTN can be recalled by either:

1. A request for such a recall by a simple majority of the County and Regional Chairs, which is confirmed by a 2/3 majority of the members qualified to vote in convention; or
2. A request for such recall from a simple majority of the members which is then confirmed by 2/3 of

the County and Regional chairs.

C. Duties of Officers:

1. Chair: It is the responsibility of the State Chair to find, develop, and assist coordinators, county chairs, and/or regional chairs. The Chair shall also chair meetings and request special meetings. The Chair shall also efficiently represent the LPTN as a spokesperson to the National Libertarian Party, the media, the State, and all others. Additionally, the Chair may recognize and assist Coordinators from time to time for temporary and or ongoing projects, who once so recognized shall serve at the discretion of the Chair. Finally, the Chair shall appoint a Tennessee Regional Coordinator for each of the four geographic regions of the state, whose duties shall consist of assisting counties with organizing and other needs. All appointed Tennessee regional coordinators shall reside in their respective regions, and no Tennessee Regional Coordinator may be a currently elected state officer.
 2. Vice Chair: It is the responsibility of the Vice Chair to replace the Chair in the event the Chair is unable to serve. The Vice Chair shall also be responsible for maintaining a communications program with and among the county and regional chairs and the state officers.
 3. Treasurer: It is the responsibility of the Treasurer to account for funds and disburse those funds for their intended use. The Treasurer shall also present a detailed accounting of the expenditures for the previous year. The Treasurer shall also propose new budgets to the membership in convention.
 4. Secretary: It is the responsibility of the Secretary to handle correspondence, keep and disseminate the membership roster to appropriate persons, and make such reports and filings as are helpful and required to our purpose and the help co-ordinate our activities with the National Libertarian Party or other groups.
- D. In the event that an elected Officer is unable to complete a term of office, that Officer shall have the right to appoint a successor. This choice must be confirmed by the consent of two-thirds of the county chairs. If that confirmation fails, the chair shall appoint the successor, with same two-thirds approval from the county chairs. The appointment shall be termed as "Interim" until the next regularly scheduled state convention, at which point the convention shall either confirm the appointment or vote a new person into office.

Article V: CONVENTIONS

- A. Conventions will be held annually. Business conventions for the election of officers will be held in the years without statewide public elections. Conventions held in years with statewide elections will be for LPTN candidates for public office. Party business (Other than the annual budget and approval, as required in Article VII, and election of delegates to the national convention) may only be conducted if a bylaw amendment meeting the requirements as stated in Article VI has been presented with the proper advance notification.
- B. To be eligible to vote at an LPTN convention, one must either:
 1. be a member, as defined in Article III, Sections A.1 and/or A.2; or
 2. be certified as a member of the LPTN as defined in Article III, Section A.3 and/or A.4, and accepted by the convention by majority vote.
- C. The Convention will, by majority vote, certify all candidates who will be eligible to have "Libertarian" next to their names on the ballot.
- D. Delegates to National Libertarian Party conventions, and Presidential Electors in Presidential election years, are elected at the previous state convention, by a majority vote of that convention, along with alternates. In the event that a delegate cannot attend, that delegate shall select an alternate, or the duty will fall upon the state chair to select the replacement from among the previously elected alternates. The Chair shall be designated as the Head of the Delegation; in the event (s)he is unable to attend, (s)he shall be entitled to appoint a replacement from among the delegates attending. In the event that additional LPTN members in good standing are able to attend a National Convention, they shall be named as Alternates at the discretion of the Head of the Delegation. Presidential elector positions unfilled at convention may be named by the chair at a later date.

Article VI: AMENDMENTS

- A. It shall require a 3/4 (75%) majority of members attending the Convention, who are eligible to vote as defined by Article V, to amend these bylaws. It shall require a 1/3 vote to close debate on a bylaw amendment.
- B. Bylaws may only be changed during an LPTN business Convention, with at least 60 days written notice to the Secretary, and with publication in the pre-convention issue of Voice of Freedom, distributed to all members.
- C. All bylaws and amendments shall take effect at the close of the convention during which they are adopted.

Article VII: BUDGETS

- A. The Treasurer will request from the delegates that the LPTN shall spend money in the same general manner for operations as the previous year, and shall set the following year's budget at an amount not to exceed the balance of LPTN funds in the bank at the time of the Convention. The budget shall be approved by a majority vote at the convention.
- B. The budget shall include a Chair's Discretionary Fund and a Reserve Fund.
 1. The Chair's Discretionary Fund shall not exceed 10% of the total budget or \$2500, whichever is less. The Chair shall have discretionary authority to disburse these funds for LPTN purposes.
 2. Reserve Fund monies may only be disbursed after approval of 6 or more of the following people: LPTN Chair, LPTN Vice-Chair, LPTN Secretary, LPTN Treasurer, and the four LPTN Tennessee Regional Coordinators. LPTN County or Regional Chairs may submit a written request for Reserve Funds to the Secretary for consideration. Submitted requests shall contain a specified amount and purpose for the funds.
- C. The books of the LPTN shall be open to the membership upon request.

I am not a friend to a very energetic government. It is always oppressive.

-- Thomas Jefferson



Webmaster: Stephen Whittaker Hosting: FutureQuest
Site contains a combination of original scripts and YaWPS modifications
This website is dedicated to the memory of Richard E. Pearl, Sr., Ed.D.



WEBMASTERS: LINK TO LPTN.NET!